

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BOBBY BROWN,
TDCJ NO. 1124005,
PREV. TDCJ NO. 914095,

Plaintiff,

v.

DANNY LANDRUM, et al.,

Defendants.

CIVIL ACTION NO. H-14-1505

MEMORANDUM OPINION AND ORDER

Texas prison inmate Bobby Brown, TDCJ No. 1124005 (Prev. TDCJ No. 914095), has filed at least three prisoner civil rights suits in the federal courts that were dismissed as frivolous. Brown v. Wilson, No. 5:10CV181 (N.D. Tex. 2010); Brown v. Weatherby, No. P-03-CV-076 (W.D. Tex. 2004); Brown v. Bowles, No. 3:99CV2158 (N.D. Tex. 2000). Consequently, the Three-Strikes Rule of the Prison Litigation Reform Act (PLRA) bars Brown from filing any new prisoner complaints without paying the filing fee in advance unless he is in imminent danger of serious physical harm at the time the suit is filed. 28 U.S.C. § 1915(g).

Brown has filed a prisoner complaint under 42 U.S.C. § 1983 and has not paid the filing fee. He complains that he has been subjected to harassment and retaliation because of his religion.

He alleges that he wears a beard because he is a Muslim (Docket Entry No. 1, p. 4). He asserts that guards have tried to force him to shave by keeping him in his cell when he refused to comply with their orders. He complains that he had to miss breakfast and was unable to get his medications. Brown contends that the Court of Appeals for the Fifth Circuit has ruled that he has a right to grow a beard up to one quarter of an inch. Brown complains that the denial of access to the unit dining hall and his medications violates his rights because he is disabled and on dialysis. He alleges that a doctor has ordered him to eat five meals a day. Brown seeks injunctive relief. He also requests nominal and punitive damages.

The Texas Department of Criminal Justice ("TDCJ") grooming policy, which prohibits inmates from growing beards without a medical pass, has been addressed and upheld by the Fifth Circuit. See DeMoss v. Crain, 636 F.3d 145, 153-55 (5th Cir. 2011). Brown's pending complaint does not show that he is in any immediate danger of serious physical harm. Brown's unsupported fears that he might be harmed are not sufficient to warrant an exception to the Three-Strikes Rule of § 1915(g). See Davis v. Scott, 94 F.3d 444, 446-447 (8th Cir. 1996). Therefore, this action should be dismissed because Brown is barred under 28 U.S.C. § 1915(g). Choyce v. Dominguez, 160 F.3d 1068, 1071 (5th Cir. 1998); Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998).

Conclusion and Order

The court **ORDERS** the following:

1. The Complaint Under the Civil Rights Act, 42 U.S.C. § 1983 (Docket Entry No. 1), filed by Bobby Brown, TDCJ No. 1124005, is **DISMISSED without prejudice** to refileing after payment of the filing fees. 28 U.S.C. § 1915(g).
2. The Clerk is directed to provide a copy of this Memorandum Opinion and Order, by mail or electronic means, to the parties; the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711; and the Pro Se Clerk for the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702.

SIGNED at Houston, Texas, on this the 4th day of June, 2014.



SIM LAKE
UNITED STATES DISTRICT JUDGE